

REMARKS

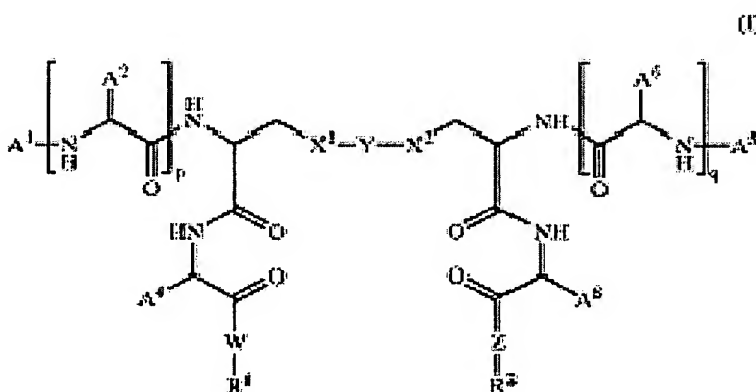
Claims 1-31 and 33 are in this application. Claims 20-31 are withdrawn from consideration. Applicants hereby cancel claims 20-31. Claims 1, 19 and 33 are rejected. Claims 2-18 are objected to. Applicants have amended the specification as per the Examiner's suggestions.

Obviousness-Type Double Patenting

Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,693,167. The Examiner states that "the compound claims in the instant application are encompassed by claim 1 in U.S. Patent 6,693,167". Applicants traverse and respectfully assert that the instant claims are neither "encompassed by" nor obvious in view of the claims of the '167 patent. Although Camilleri et al. disclose the structure:

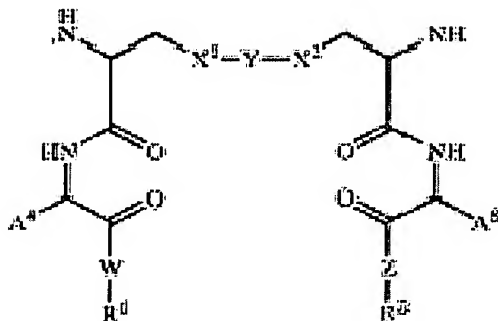


what is claimed is quite different:



Moreover, the core spermine structure claimed in the instant claims is not embodied within the scope of the invention claimed in the '167 patent. That is, there is no possible definition of any of the substituents set forth in Claim 1 of the '167 patent which result in the instant

spermine structure. In particular, the core of structure (I) set forth in Claim 1 of the '167 patent



cannot embody, and in no way suggests, the instant claimed spermine moiety under any definition of X¹, X² or Y. Accordingly, the structure claimed in Claim 1 of the instant application is not encompassed within or an obvious variation of the structure claimed in any of the claims of the '167 patent. Therefore, Applicants respectfully request withdrawal of the obviousness-type double patenting rejection.

Claim Rejections – 35 USC §112

Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. Applicants have amended the claim to address the Examiner's concern and therefore respectfully request withdrawal of the rejection.


Claim Rejections – 35 USC §102

Claims 1 and 19 stand rejected under 35 U.S.C. 102(e) as being anticipated by Camilleri et al., U.S. Patent 6,693,167. Applicants traverse and respectfully assert that the '167 patent is not prior art under 35 U.S.C. §102(e) against the instant application. The international application leading to the '167 patent was filed via the PCT on December 8, 1998. Accordingly, the provisions of 35 U.S.C. §102(e) that apply to the reference are those that were in place prior to the amendment of the statute by the American Inventors Protection Act of 1999 and the Intellectual Property and High Technology Amendments Act of 2002 (see M.P.E.P. § 2136.03(II)(C): "If the international application has an international filing

date prior to November 29, 2000, apply the reference under the provisions of 35 U.S.C. §102 and 374, prior to the AIPA amendments: (1) For U.S. patents, apply the reference under 35 U.S.C. §102(e) as of the earlier of the date of completion of the requirements of 35 U.S.C. § 371(c)(1), (2) and (4) or the filing date of the later-filed U.S. application that claimed the benefit of the international application)". Under the pre-amendment provisions of 35 U.S.C. §102(e), the 102(e) date for the '167 patent for prior art purposes would have been the date of completion of the requirements of 35 U.S.C. § 371(c)(1), (2) and (4), listed on the face of the patent as June 8, 2000. As the instant application claims priority to an application filed in Great Britain on June 16, 1999, the '167 patent is not available as prior art against the instant application. Moreover, since the PCT publication corresponding to the '167 patent was published on June 17, 1999, it too is not prior art under 35 U.S.C. §102(a) or (b) against the instant application. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. §102(e).

In view of the forgoing arguments and amendments, Applicants respectfully request withdrawal of the objections and rejections to the disclosure and claims, and ask that the Examiner allow this case to issue.

Respectfully submitted,



William R. Majarian
Attorney for Applicants
Registration No. 41,173

GLAXOSMITHKLINE
Corporate Intellectual Property - UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-5968
Facsimile (610) 270-5090

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